

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1461 of 2005

Between:

S.Moulali Basha, S/o.Mabubasha,
Diguwapadu village, Kurnool Mandal & District.

... PETITIONER

AND

- 1 The District Collector (CS), Kurnool.
- 2 The Joint Collector (CS), Kurnool.
- 3 The Revenue Divisional officer, Kurnool.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more in the nature of Mandamus, declaring the action of the 1st respondent in rejecting the stay application seeking stay of operation of the orders of the 2nd respondent dated 29-12-2004 in Rc.No.CS-3/171/2004 filed along with the revision on 22-1-2005, as being illegal, arbitrary, and pass such other order or orders.

Counsel for the Petitioner:MR.BURUJUPAPA REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

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ORDER:

The authorization of the petitioner as Fair Price Shop dealer was suspended by the third respondent, through his proceedings dated 7.06.2004, on the basis of certain allegations. Aggrieved thereby, the petitioner preferred an appeal before the second respondent, together with an application for stay. The second respondent granted stay, through his order dated 3.07.2004. Thereafter, he dismissed the appeal on 29.12.2004. Aggrieved by the same, the petitioner preferred a revision before the first respondent and filed an application for stay. The grievance is that no orders have been passed by the first respondent so far, and that the third respondent is proposing to take steps to entrust the distribution of the essential commodities to third parties.

Heard learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

From a perusal of the order dated 29.12.2004 passed by the second respondent, it is evident that the main allegation against the petitioner was that he left the village, without permission from the Mandal Revenue Officer, and that certain irregularities were noted, as to the distribution of essential commodities. Some of the observations made by the second respondent, while dismissing the appeal, read as under:

“If the dealer is continued on the stay orders there is likelihood of getting undue influence on the other card holders also. Further, the appellant has clearly violated the conditions of the authorization by issuing less quantity of E.Cs and selling the E.Cs at higher rates. The absence of the appellant in the village is unauthorized and he should not have absented without permission of the Mandal Revenue Officer”

None of the grounds, referred to above, can constitute any basis for dismissal of the appeal. A Fair Price Shop dealer is not a regular employee. He is not

supposed to remain in the village through out, nor he needs permission of any authority of the Revenue Department to leave the village. Under law, it is permissible for the family members of a Fair Price Shop dealer to run the shop, in his absence. The lapses, if any, on the part of the petitioner have to be finally established during the course of enquiry, before the third respondent, on the basis of the allegations against the petitioner and the explanation that may be submitted by him. Further, the second respondent has already directed the third respondent to conclude the proceedings at the earliest. The stay granted by the second respondent, in favour of the petitioner, was continuing from July 2004. No harm as such would occur, in case the petitioner is permitted to function for few more weeks.

For the foregoing reasons, the writ petition is disposed of, directing that the order dated 7.06.2004, passed by the third respondent, against the petitioner, shall remain stayed till the disposal of the proceedings initiated by him, against the petitioner. In view of this order, the revision preferred by the petitioner, before the first respondent, becomes infructuous and it shall not be necessary for him to pass any orders. There shall be no order as to costs.

2nd February, 2005

Note: Issue copy in two days.

(B/o)

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To

- 1 The District Collector (CS), Kurnool.
- 2 The Joint Collector (CS), Kurnool.
- 3 The Revenue Divisional officer, Kurnool.

4 Two C.Cs. to the Government Pleader for Civil Supplies,
High Court buildings, Hyderabad (OUT)

5 Two C.D.copies